

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

STEVIE WILSON)
Plaintiff,)
v.) Case No. 09 C 8063
MARC KESKE, THE CITY OF)
NORTH CHICAGO) Judge Manning
Defendants.) Magistrate Schenkier

PLAINTIFF'S RULE 50 MOTION FOR JUDGMENT AS A MATTER OF LAW

NOW COMES Plaintiff, Stevie Wilson, by his attorney, SCOTT T. KAMIN, with THE LAW OFFICES OF SCOTT T. KAMIN, of counsel, and, and hereby moves this Honorable Court pursuant to Rule 50 of the Federal Rules of Civil Procedure for judgment as a matter of law in its favor and against the Defendant. In support thereof, and as detailed in its contemporaneously filed supporting memorandum of law, Plaintiff states as follows:

1. On November 3, 2009, OFFICER KESKE responded to a 911 call for help from Plaintiff. OFFICER KESKE handcuffed Plaintiff and pushed him to the ground. Although Plaintiff was chest down posing no threat nor resisting arrest OFFICER KESKE deployed his model X26 TASER ECD weapon into Plaintiff's back.
2. Plaintiff filed this instant action alleging OFFICER KESKE used excessive force in violation of 42 U.S.C. § 1983 and Illinois common law while affecting his arrest.
3. OFFICER KESKE has both admitted and stipulated to tasering Plaintiff in the back *after* he was handcuffed with his chest down on the ground. Plaintiff now moves pursuant to Rule 50 of the Federal Rules of Civil Procedure for judgment as a matter of law in its favor and against Defendant on two grounds:
 - A. That deployment of a Taser on an unarmed arrestee after he was handcuffed where he was neither a safety nor a flight risk was objectively unreasonable.
 - B. OFFICER KESKE cannot be afforded the defense of qualified immunity where the use of force he used on Plaintiff was objectively unreasonable and that as of

2009 it was clearly established that using a taser on a handcuffed arrestee who was not endangering himself or others was not objectively reasonable.

WHEREFORE, for all the foregoing reasons and as explained more fully in the Plaintiff supporting memorandum of law, Plaintiff, Stevie Wilson, prays that this Honorable Court grant its motion for judgment matter of law in its favor and against Defendant, and grant it any further relief deemed just and appropriate.

Respectfully submitted,

/s/ Scott T. Kamin
Attorney for Plaintiff

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